

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

RECEIVED
JUL 12 2024
US DISTRICT COURT
MID DIST TENN

RICKY HARRIS,)	
)	
Plaintiff,)	
)	
vs.)	No. 3:18-cv-00174
)	
CANDICE WHISMAN, in her official)	JUDGE RICHARDSON
Capacity as Director of Sentence)	JURY DEMAND
Management Services for the TENNESSEE)	CLASS ACTION
DEPARTMENT OF CORRECTION,)	
)	
Defendant.)	

**RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION FOR EXTENSION OF
TIME TO ANSWER RE 164 AMENDED COMPLAINT AND TO HOLD PENDING
MOTIONS IN ABEYANCE**

Ricky Harris, Pro se, Plaintiff of record in the above-entitled action, respectfully submits this response in opposition to the Defendant's Motion for Extension of Time to Answer RE 164 Amended Complaint and to Hold Pending Motions in Abeyance. In support of this Response, Plaintiff submits the following:

1. Adam Nicholas Tune, Assistant Attorney General, filed notice of appearance on behalf of Defendant on June 28, 2024, docket number 171.
2. Assistant Attorney General Tune also filed the herein listed Motion for Extension of Time to Answer RE 164 Amended Complaint and to Hold Pending Motions in Abeyance on June 28, 2024, docket number 172.

3. On July 1, 2024, Plaintiff received Assistant Attorney General Tune's notice of appearance by U.S. mail. He did not mail a copy of the Motion for Extension of Time to Answer RE 164 Amended Complaint and to Hold Pending Motions in Abeyance to Plaintiff.

4. Assistant Attorney General Tune is notorious for not serving various filed documents to opposing parties. For instance, in the *Mario Pendergrass, #154095 vs. Tennessee Department of Correction and Sentence Management Services*, Case Number 23-1222-I, Chancery Court of Davidson County, Tennessee, Assistant Attorney General Tune was not serving copies of his court filings on the petitioner. The Court admonished Assistant Attorney General Tune for failing to serve copies of his court filings. (See Exhibit No. 1).

5. Assistant Attorney General Tune is in violation of Rule 5(D) Federal Rules of Civil Procedure. Such violations disadvantages Plaintiff, because he has to represent himself pro se, and without proper notification of filings, Plaintiff has no idea of what Assistant Attorney General Tune is sending to the Court. Such actions prevent Plaintiff from being able to properly respond.

6. On July 1, 2024, this Court issued an order granting the Motion for Extension of Time to Answer RE 164 Amended Complaint and to Hold Pending Motions in Abeyance, docket number 173. Plaintiff was never served the motion, nor had an opportunity to respond.

7. Plaintiff filed a Motion for Scheduling and Pretrial Conference and Management Order, number 165; Motion to Take Deposition from Amber Phillips, number 166; Motion to Take Deposition from Douglas Stephens, number 167; and Motion to Take Deposition from Candice Whisman, number 168. All of the above motions were filed on July 11, 2024. Plaintiff filed a Motion for Permissive Joinder of Parties, number 169 on July 14, 2024. These motions are still pending and the Court has taken no action on them as of this date.

8. Plaintiff, acting pro se, should have the same opportunity to have his motions ruled on as the Defendant. Throughout this case, Defendant's attorneys have always had immediate rulings when filing, while Plaintiff's filings receive rulings weeks to months after filing, or not ruled on at all. This disadvantages Plaintiff.

9. The Defendant filed the Motion for Extension of Time to Answer RE 164 Amended Complaint and to Hold Pending Motions in Abeyance on June 28, 2024, which the Court granted on July 1, 2024, well before Plaintiff was properly informed by Assistant Attorney General Tune. Plaintiff objects to the motion because there is no reason to delay Plaintiff from taking depositions and to joinder a party to the Complaint. Such delay only operates to prevent Plaintiff from moving forward in this case.

10. This Complaint has survived screening by this Court and the Defendant's two motions to dismiss the Complaint. Defendant has failed in the past five and one-half years to respond and address the issues presented in the Complaint and Amended Complaint. Defendant has received numerous unopposed extensions of time. The Defendant is deliberately causing inordinate delay in this case, which is causing harm to Plaintiff and continuous violation of his constitutional rights.

WHEREFORE, PLAINTIFF PRAYS:

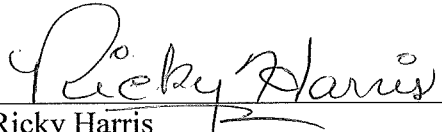
1. That this Court timely rule on Plaintiff's motions the same as it does for the Defendant;
2. Resend its previous order holding Plaintiff's motions in abeyance and order that Plaintiff may proceed in conducting depositions;
3. Admonish Assistant Attorney General Tune for failing to comply with Rule 5(D) and order him to serve all filed documents on Plaintiff, now and in the future, beginning with his

Motion for Extension of Time to Answer RE 164 Amended Complaint and to Hold Pending Motions in Abeyance; and

4. Any and all other relief this Court deems appropriate.

Respectfully submitted,

July 5, 2024.

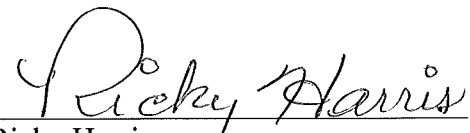

Ricky Harris
TDOC ID Number 00121445
1045 Horsehead Lane
Pikeville, TN 37367

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the forgoing has been filed by placing it in the BCCX institutional mailbox, U.S. mail, postage prepaid to:

Donna L. Green and
Adam Nicholas Tune
Assistant Attorney Generals
PO Box 20207
Nashville, TN 37202

on this the 5th day of July, 2024.


Ricky Harris

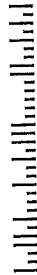
Ricky Harris, 00121445
1045 Horsehead Lane
Pikeville, TN 37367-7432

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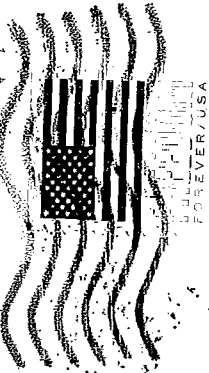
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US DISTRICT COURT
MID DIST TENN

MS LYNDA HILL
CLERK OF COURT
US DISTRICT COURT
719 CHURCH ST STE 1300
NASHVILLE TN 37203



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